

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

VINCENT E. WHITE	:	
	:	NO. 1:05-CV-00473
Plaintiff,	:	
	:	OPINION & ORDER
	:	
v.	:	
	:	
	:	
RICHARD K. JONES, <u>et al.</u> ,	:	
	:	
Defendant.	:	
	:	

This matter is before the Court on the Report and Recommendation of the assigned Magistrate Judge (doc. 11). No objections were filed thereto. The Magistrate Judge recommends that the Plaintiff's Complaint be dismissed with prejudice for lack of prosecution and that the Court certify, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal would not be taken in good faith (Id. citing McGore v. Wrigglesworth, 114 F.3d 601 (6th Cir. 1997)).

Plaintiff is an inmate at the Butler County Jail in Hamilton, Ohio (Id.). Plaintiff filed the instant action pro se alleging a violation of his constitutional rights (Id.). On July 29, 2005, a Court Order mailed to Plaintiff was returned to the Clerk by the United States Postal Service as "undeliverable/unable to forward" (Id.). Subsequently, the Court ordered Plaintiff to show cause, within fifteen days, why his action should not be

dismissed for want of prosecution (Id.). This show cause order was also sent to the Plaintiff and returned as "undeliverable/no longer at that address" (Id.). Fifteen days passed and Plaintiff did not reply (Id.). The show cause order was docketed on August 15, 2005 (Id.). Dismissal, therefore notes the Magistrate Judge, is appropriate pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and Link v. Wabash R.R., 370 U.S. 626, 630-31 (1962), as well as Jourdan v. Jabe, 951 F.2d 108, 109 (6th Cir. 1991) (doc. 11).

The Plaintiff was served with the Report and Recommendation and was therefore afforded proper notice of the Magistrate Judge's Report and Recommendation required by 28 U.S.C. § 636(b)(1)(C), including that failure to file timely objections to the Report and Recommendation would result in a waiver of further appeal. See United States v. Walters, 638 F.2d 947, 949-50 (6th Cir. 1981). The Plaintiff has failed to file any objections thereto within the ten days provided for by Fed. R. Civ. P. 72(b) and 28 U.S.C. § 636(b)(1)(C). Pursuant to 28 U.S.C. § 636(b), the Court has reviewed the Report and Recommendation de novo, finding it both thoughtful, well-reasoned, and proper.

Accordingly, the Magistrate Judge's Report and Recommendation (doc. 11) is hereby ADOPTED IN ITS ENTIRETY. Plaintiff's Complaint is DISMISSED (doc. 2) and the Court

CERTIFIES, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal of this Order would not be taken in good faith.

SO ORDERED.

Dated: October 12, 2005

s/S. Arthur Spiegel
S. Arthur Spiegel
United States Senior District Judge